

## **CHAPTER 71-05-07 RETURN TO SERVICE**

### **Section**

71-05-07-01

Return to Service - Retired Member

71-05-07-02

Return to Service - Disabled Member

**71-05-07-01. Return to service - Retired member.** The benefits of a retired member who returns to permanent employment must be suspended. Upon final retirement, the member's benefit must be recalculated as follows:

1. If the period of subsequent employment is less than two years, the member may elect:
  - a. A return of the member's contributions made after reemployment, and the suspended benefit restored, adjusted for the member's age at final retirement and for benefit payments received prior to reemployment; or
  - b. A recalculation of the member's benefit based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at final retirement, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.
2. If the period of subsequent employment is more than two years, the member's benefit must be based on the benefit provisions in effect at final retirement and shall include the member's age and salary earned during the period of reemployment together with total service earned before and after reemployment, adjusted to take account of benefit payments received prior to reemployment. If a different option is selected at the second retirement date, the member and office will submit information as required to make an actuarial determination of the elected benefit and the related payment of such.
3. If a member dies during subsequent employment, the member's initial retirement benefit election will apply. If the benefit election was an optional benefit under section 71-05-02-04, then the member's benefit must be recalculated based on the benefit provisions in effect at the member's initial retirement, but adjusted to take account of age at death, benefit payments received prior to reemployment, salary and service credits, and any benefit increases accrued during the period of subsequent employment.

**History:** Effective October 1, 1991; amended effective May 1, 2004.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

**71-05-07-02. Return to service - Disabled member.** If the recipient of a disability benefit returns to work, said member is responsible for reporting employment to the public employees retirement system.

1. If a member is working in a permanent full-time position and is eligible to participate in the North Dakota highway patrolmen's retirement system, monthly benefits from the North Dakota highway patrolmen's retirement system must be suspended. If an individual is not able to continue employment for at least nine months, said member may resume disability status with the North Dakota highway patrolmen's retirement system.
2. If a member is receiving disability benefits from the North Dakota highway patrolmen's retirement system, and returns to employment not covered under the highway patrolmen's retirement system, disability benefits may continue for up to nine months.
3. If a member becomes ineligible for a disability benefit from the North Dakota highway patrolmen's retirement system, the disability benefit will be discontinued on the date the member becomes ineligible for disability status.

**History:** Effective October 1, 1991.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11